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Baker - David C. Broderick - 1880

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ORATION

OF

COLONEL EDWARD D. BAKER

OVER THE DEAD BODY OF

DAVID C. BRODERICK

A SENATOR OF THE UNITED STATES

18TH SEPTEMBER, 1859



NEW-YORK

THE DE VINNE PRESS

1889



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Class of 1862

*David C. Broderick was shot in a duel on the thirteenth September, 1859, and died three days thereafter, on the sixteenth. The challenging party was David S. Terry, who five days prior to the meeting resigned his office as Chief-Justice of California—having then but a few weeks to serve. The funeral service was held in the plaza of San Francisco, on Sunday the eighteenth, when Colonel Baker, standing by the open coffin, delivered the following address. It was heard by a very large concourse of people and produced a great effect. It is now reprinted in the hope of preserving a worthy memorial of two eminent persons—Senator Broderick and Colonel Edward D. Baker, some time Senator from Oregon, and an early victim of the causeless Rebellion.*

*New York, 30th October, 1889.*

# LAST WITNESS OF FAMOUS DUEL DIES

## L. G. Simmons, Who Was Senator Broderick's Aid in Fight With Judge Terry, Passes Away.

With the death of L. G. Simmons, a well known resident of Ukiah, Cal., Sunday, the surviving witness of the famous Broderick-Terry duel party has passed away. Mr. Simmons drove with Sen. Broderick to the meeting place of the duellists the morning of Sept. 13, 1859. Sen. Broderick received a bullet through the right lung, while Mr. Terry escaped unhurt. Sen. Broderick was taken to the home of Mr. Simmons, his second, at Black Point, where he died four days after the shooting. His last words to Mr. Simmons were: "They have killed me because I was opposed to the extension of slavery and a corrupt administration."

The duel in which Sen. Broderick was killed was one of the most famous in the history of duelling in this country and caused a commotion second only to the subsequent killing of his conqueror, David S. Terry, in a tragic manner by David Nagle, United States deputy marshal, in the dining room of the railroad station at Lathrop, Cal., after Terry had slapped the face of Stephen J. Field, chief justice of the Supreme court.

Sen. Broderick was the son of an Irish stonecutter who came to this country to work on the Capitol at Washington. The boy learned the trade, but at an early age was such an adroit politician that he became a power in the city.

The gold fever of '49 took him to California and there his great force of character and ability as a leader won a high place for him and he became eminent in the councils of the Democratic party. He was opposed politically by David S. Terry, one time chief judge of the Supreme court of California and a bitter personal enmity arose between the men. It was said at the time that this was caused by something apart from politics but the true cause of the conflict never was made clear.

The challenge for the duel was issued by Broderick, who was an athlete of the gladiatorial type, and was accepted. After one futile meeting the men met again in a wood in San Mateo county, with their seconds, and the conflict took place.

As the men stood facing each other Sen. Broderick's revolver was discharged prematurely—accidentally. It was said at the time—and the bullet ploughed the ground on a direct line with but a considerable distance in front of his enemy. In another moment Terry had fired, and Broderick fell prostrate. Leaving him lying on the ground, Terry and his friends coolly went to a nearby hotel for breakfast. Broderick died three days later, on Sept. 16, 1859.

So great was the admiration of the people of California for him that there was a subscription taken up all over the state for a monument of imposing type

which now stands over his grave in the cemetery in Lone Mountain, Cal.

It was on August 14, 1889, that Terry met his sudden fate. For some time previously there had been in litigation the famous Hill-Sharon divorce case, and the interest in the final outcome of it was intense. The case came up for decision finally before Judge Field, and his decree was adverse to Sarah Althea Hill, one of the principals. She subsequently became the wife of Terry.

Judge Field had business in lower California, and Terry and his wife learned of his travelling plans. They got aboard the train on which the Judge was riding and alighted as he did at Lathrop. The Judge was accompanied by Nagle as a bodyguard. While the Judge was seated at a table in the station restaurant Terry stepped up and punched him in the face. He was about to deliver a second blow when Nagle drew his revolver and shot him dead.



**CITIZENS OF CALIFORNIA:** A Senator lies dead in our midst. He is wrapped in a bloody shroud, and we to whom his toils and cares were given are about to bear him to the place appointed for all the living. It is not fit that such a man should pass to the tomb unheralded; it is not fit that such a life should steal unnoticed to its close; it is not fit that such a death should call forth no rebuke, or be surrounded by no public lamentation. It is this conviction which impels the gathering of this assemblage. We are here of every station and pursuit, of every creed and character, each in his capacity of citizen, to swell the mournful tribute which the majesty of the people offers to the unreplying dead. He lies to-day surrounded by little of funeral pomp. No banners droop above the bier; no melancholy music floats upon the reluctant air. The hopes of high-hearted friends droop like the fading flowers upon his breast, and the struggling sigh compels the tear in eyes that seldom weep. Around him are those who have known him best and loved him longest; who have shared the triumph and endured the defeat. Near him are the gravest and noblest of the State, possessed by a grief at once earnest and sincere; while beyond, the masses of the people, whom he loved and for whom his life was given, gather like a thunder-cloud of swelling and

indignant grief. In such a presence, fellow-citizens, let us linger for a moment at the portals of the tomb, whose shadowy arches vibrate to the public heart, to speak a few brief words of the man, of his life, and of his death.

Mr. Broderick was born in the District of Columbia in 1819; he was of Irish descent and of respectable though obscure parentage; he had little of early advantages, and never summoned to his aid a complete and finished education. His boyhood—as, indeed, his early manhood—was passed in the city of New York, and the loss of his father early stimulated him to the efforts which maintained his surviving mother and brother, and served also to fix and form his character even in his boyhood. His love for his mother was his first and most distinctive trait of character; and when his brother died—an early and sudden death—the shock gave a serious and reflective cast to his habits and his thoughts, which marked them to the last hour of his life.

He was always filled with pride and energy and ambition; his pride was in the manliness and force of his character, and no man had more reason. His energy was manifest in the most resolute struggles with poverty and obscurity, and his ambition impelled him to seek a foremost place in the great race for honorable power. Up to the time of his arrival in California, his life had been passed amid events incident to such a character. Fearless, self-reliant, open in his enmities, warm in his friendships, wedded to his opinion, and marching directly to his purpose through and over all opposition, his career was chequered with success and defeat. But even in defeat his energies were strengthened and his character developed. When he reached these shores his keen observation taught him at once that he trod a broad field, and that a higher career was before him. He had no false pride—sprung from a



people and of a race whose vocation was labor, he toiled with his own hands and sprang at a bound from the workshop to the legislative hall. From that hour there congregated around him and against him the elements of success and defeat. Strong friendships, bitter enmities, high praise, malignant calumnies; but he trod with a free and a proud step that onward path which has led him to glory and the grave.

It would be idle for me at this hour, and in this place, to speak of all that history with unmitigated praise; it will be idle for his enemies hereafter to deny his claim to noble virtues and high purposes. When, in the Legislature, he boldly denounced the special legislation which is the curse of a new country, he proved his courage and his rectitude. When he opposed the various and sometimes successful schemes to strike out the salutary provisions of the constitution which guarded free labor, he was true to all the better instincts of his life. When, prompted by his ambition and the admiration of his friends, he first sought a seat in the Senate of the United States, he sought the highest of all positions by legitimate effort, and failed with honor. It is my duty to say that, in my judgment, when, at a later period, he sought to anticipate the Senatorial election, he committed an error, which, I think, he lived to regret. It would have been a violation of the true principles of representative government, which no reason, public or private, could justify, and could never have met the permanent approval of good and wise men. Yet, while I say this over his bier, let me remind you of the temptation to such an error, of the plans and the reasons which prompted it, of the many good purposes it was intended to effect. And if ambition, "the last infirmity of noble minds," led him for a moment from the better path, let me remind you how nobly he retained it.

It is impossible to speak, within the limits of this

address, of the events of that session of the Legislature at which he was elected to the Senate of the United States; but some things should not be passed in silence here. The contest between himself and the present Senator had been bitter and personal. He had triumphed; he had been wonderfully sustained by his friends, and stood confessedly "the first in honor and the first in place." He yielded to an appeal made to his magnanimity by his foe. If he judged unwisely, he has paid the forfeit well. Never in the history of political warfare has any man been so pursued. Never has malignity so exhausted itself. Fellow-citizens, the man who lies before you was your Senator. From the moment of his election, his character has been maligned, his motives attacked, his courage impeached, his patriotism assailed. It has been a system tending to one end, *and the end is here*. What was his crime? Review his history—consider his public acts—weigh his private character—and before the grave encloses him forever, judge between him and his enemies. As a man to be judged in his private relations, who was his superior? It was his boast—and amid the general license of a new country it was a proud one—that his most scrutinizing enemy could fix no single act of immorality upon him. Temperate, decorous, self-restrained, he had passed through all the excitements of California unstained. No man could charge him with broken faith or violated trust. Of habits simple and inexpensive, he had no lust of gain. He overreached no man's weakness in a bargain, and withheld no man his just due. Never, in the history of the State, has there been a citizen who has borne public relations more stainless in all respects than he. But it is not by this standard he is to be judged. He was a public man, and his memory demands a public judgment. What was his public crime? The answer is in his own words: "They have

killed me because I was opposed to the extension of slavery and a corrupt Administration." Fellow-citizens, they are remarkable words, uttered at a very remarkable moment; they involve the history of his Senatorial career, and of its sad and bloody termination. When Mr. Broderick entered the Senate he had been elected at the beginning of a Presidential term, as a friend of the President-elect, having undoubtedly been one of his most influential supporters. There were unquestionably some things in the exercise of the appointing power which he could have wished otherwise; but he had every reason with the Administration which could be supposed to weigh with a man in his position. He had heartily maintained the doctrine of popular sovereignty as set forth in the Cincinnati platform, and he never wavered in its support till the day of his death. But when in his judgment the President betrayed his obligations to the party and the country — when, in the whole series of acts in relation to Kansas, he proved recreant to his pledges and instructions; when the whole power of the Administration was brought to bear upon the legislative branch of the Government in order to force slavery upon an unwilling people, then in the high performance of his duty as a Senator, he rebuked the Administration by his voice and his vote, and stood by his principles. It is true he adopted no half-way measures. He threw the whole weight of his character into the ranks of the opposition; he endeavored to rouse the people to an indignant sense of the iniquitous tyranny of the Federal power, and kindling with the contest, became its fiercest and firmest opponent.

Fellow-citizens, whatever may have been your political predilections, it is impossible to repress your admiration as you review the conduct of the man who lies hushed in death before you. You read in his history a glorious imitation of the great popular leaders who op-



posed the despotic influence of power in other lands and in our own. When John Hampden died at Chalgrove Field he sealed his devotion to popular liberty with his blood. The eloquence of Fox found the sources of its inspiration in his love of the people. When Senators conspired against Tiberius Gracchus and the Tribune of the people fell beneath their daggers, it was power that prompted the crime and demanded the sacrifice. Who can doubt if your Senator had surrendered his free thoughts and bent in submission to the rule of the Administration—who can doubt that instead of resting on a bloody bier, he would this day have been reposing in the inglorious felicitude of Presidential sunshine?

Fellow-citizens, let no man suppose that the death of the eminent citizen of whom I speak was caused by any other reason than that to which his own words assign it. It has been long foreshadowed. It was predicted by his friends; it was threatened by his enemies; it was the consequence of intense political hatred. His death was a political necessity, poorly veiled under the guise of a private quarrel. Here, in his own State, among those who witnessed the late canvass, who knew the contending leaders—among those who knew the antagonists on the bloody ground, here the public conviction is so thoroughly settled that nothing need be said. Tested by the correspondence itself, there was no cause in morals, in honor, in taste, by any code—by the custom of any civilized land, there was no cause for blood. Let me repeat the story; it is as brief as it is fatal: A judge of the Supreme Court descends into a political convention—it is just, however, to say that the occasion was to return thanks to his friends for an unsuccessful support; in a speech bitter and personal he stigmatized Senator Broderick and all his friends in words of contemptuous insult. When Mr. Broderick saw that speech he retorted, saying, in sub-

stance, that he had heretofore spoken of Judge Terry as an honest man, but that he now took it back. When inquired of, he admitted that he had so said, and connected his words with Judge Terry's speech as prompting them. So far as Judge Terry personally was concerned, this was the cause of mortal combat; there was no other. In the contest which has just terminated in the State, Mr. Broderick had taken a leading part; he had been engaged in controversies very personal in their nature, because the subjects of public discussion had involved the character and conduct of many public and distinguished men. But Judge Terry was not one of these. He was no contestant; his conduct was not in issue; he had been mentioned but once incidentally—in reply to his own attack—and, except as it might be found in his peculiar traits or peculiar fitness, there was no reason to suppose that he would seek any man's blood. When William of Nassau, the deliverer of Holland, died in the presence of his wife and children, the hand that struck the blow was not nerved by private vengeance. When the fourth Henry passed unharmed amid the dangers of the field of Ivry, to perish in the streets of his capital by the hand of a fanatic, he did not seek to avenge a private grief. An exaggerated sense of personal honor—a weak mind with choleric passions, intense sectional prejudice, united with great confidence in the use of arms—these sometimes serve to stimulate the instruments which accomplish the deepest and deadliest purpose.

Fellow-citizens! one year ago I performed a duty such as I perform to-day over the remains of Senator Ferguson, who died as Broderick died, tangled in the meshes of the code of honor. To-day there is another and more eminent sacrifice. To-day I renew my protest; to-day I utter yours. The code of honor is a delusion and a snare; it palters with the hope of a true courage, and binds it at the feet of crafty and cruel

skill. It surrounds its victim with the pomp and grace of the procession, but leaves him bleeding on the altar. It substitutes cold and deliberate preparation for courageous and manly impulse, and arms the one to disarm the other; it may prevent fraud between practiced duelists who should be forever without its pale, but it makes the mere "trick of the weapon" superior to the noblest cause and the truest courage. Its pretense of equality is a lie; it is equal in all the form, it is unjust in all the substance—the habitude of arms, the early training, the frontier life, the border war, the sectional custom, the life of leisure—all these are advantages which no negotiations can neutralize, and which no courage can overcome. But, fellow-citizens, the protest is not only spoken in your words and mine—it is written in indelible characters; it is written in the blood of Gilbert, in the blood of Ferguson, in the blood of Broderick, and the inscription will not altogether fade. With the administration of the code in this particular case I am not here to deal. Amid passionate grief let us strive to be just. I give no currency to rumors of which personally I know nothing; there are other tribunals to which they may well be referred, and this is not one of them; but I am here to say that whatever in the code of honor or out of it demands or allows a deadly combat, where there is not in all things entire and certain equality, is a prostitution of the name, is an evasion of the substance, and is a shield blazoned with the name of chivalry to cover the malignity of murder.

And now the shadows turn toward the East, and we prepare to bear these poor remains to their silent resting-place. Let us not seek to repress the generous pride which prompts a recital of noble deeds and manly virtues. He rose unaided and alone; he began his career without family or fortune, in the face of difficulties; he inherited poverty and obscurity; he

died a Senator in Congress, having written his name in the history of the great struggle for the rights of the people against the despotism of organization and the corruption of power. He leaves in the hearts of his friends the tenderest and the proudest recollections. He was honest, faithful, earnest, sincere, generous, and brave; he felt in all the great crises of his life that he was a leader in the ranks, and for the rights of the masses of men, and he could not falter. When he returned from that fatal field, while the dark wing of the archangel of death was casting its shadows upon his brow, his greatest anxiety was as to the performance of his duty. He felt that all his strength and all his life belonged to the cause to which he had devoted them. "Baker," said he—and to me they were his last words—"Baker, when I was struck, I tried to stand firm, but the blow blinded me, and I could not." I trust that it is no shame to my manhood that tears blinded me as he said it. Of his last hours I have no heart to speak. He was the last of his race; there was no kindred hand to smooth his couch, or wipe the death-damps from his brow; but around that dying bed strong men, the friends of early manhood, the devoted adherents of later life, bowed in irrepressible grief, and lifted up their voices and wept.

But, fellow-citizens, the voice of lamentation is not uttered by private friendship alone—the blow that struck his manly breast has touched the heart of a people, and as the sad tidings spread a general gloom prevails. Who now can speak for California? Who can be the interpreter of the wants of the Pacific coast? Who can appeal to the communities of the Atlantic, who love free labor? Who can speak for the masses of men, with a passionate love for the classes from whence he sprung? Who can defy the blandishments of power, the indolence of office, the corruption of

administrations? What hopes are buried with him in the grave?

“Ah! who that gallant spirit shall resume,  
Leap from Eurotas’ bank and call us from the tomb?”

But the last word must be spoken, and the imperious mandate of death must be fulfilled. Thus, O brave heart, we bear thee to thy rest! Thus, surrounded by tens of thousands, we leave thee to the equal grave. As in life no other voice among us so rang its trumpet-blast upon the ear of freemen, so in death its echoes will reverberate amid our mountains and valleys, until truth and valor cease to appeal to the human heart.

“His love of truth — too warm, too strong,  
For hope or fear to chain or chill,  
His hate of tyranny and wrong  
Burn in the breasts he kindled still.”

Good friend! true hero! hail and farewell.







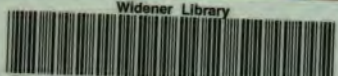








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